

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

Dwaine Wright,

Petitioner,

Case No. 3:10-cv-174

Case No. 3:04-cr-003

-vs-

District Judge Thomas M. Rose

United States of America,

Magistrate Judge Sharon Ovington

Respondent.

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**ENTRY AND ORDER ADOPTING REPORT AND RECOMMENDATIONS OF THE MAGISTRATE JUDGE (DOC. 156), OVERRULING DEFENDANT'S OBJECTIONS (DOC. 160), DENYING PETITIONER DWAIN WRIGHT'S MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE (CASE NO. 3:04-CR-003, DOC. 145) AND GRANTING RESPONDENT UNITED STATES' MOTION TO DISMISS (DOC. 152), EXCEPT AS TO THE ALLEGATION OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL RELATIVE TO THE UNITED STATES' PLEA OFFER. IT IS FURTHER ORDERED THAT: COUNSEL BE APPOINTED TO REPRESENT PETITIONER AS TO THE NARROW ISSUE REGARDING THE ALLEGATION OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL RELATIVE TO THE UNITED STATES' PLEA OFFER, AND THAT AN EVIDENTIARY HEARING HELD IN ACCORDANCE WITH 28 U.S.C. § 2255(b) and (g).**

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This matter comes before the Court pursuant to Objections (Doc. 160) to the Report and Recommendations of Magistrate Judge Sharon Ovington (Doc.156) recommending that the United States' motion to dismiss, (Doc. 152) be granted.

The Court has reviewed the findings of the Magistrate Judge and, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), this Court has made a de novo review of the record in this case. Upon consideration of the foregoing, the Court finds the Objections (Doc. 160) are not well-taken and are hereby **OVERRULED**.

The Court **ADOPTS** the Report and Recommendations (Doc. 156) in it's entirety. Petitioner Dwaine Wright's motion to vacate, set aside or correct sentence (Case No. 3:04-cr-003, Doc. 145) is **DENIED** and Respondent United States' corresponding motion to dismiss (Doc. 152) is **GRANTED**, except as to the allegation of ineffective assistance of trial counsel relative to the United States' plea offer. It is further **ORDERED** that Counsel be appointed to represent Petitioner as to the narrow issue regarding the allegation of ineffective assistance of trial counsel relative to the United States' plea offer, and that an evidentiary hearing will be held in accordance with 28 U.S.C. § 2255(b) and (g).

Thursday, October 13, 2011

**s/THOMAS M. ROSE**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE